



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

February 28, 2022

EA-21-133

Mr. Bruce F. Karie
Radiation Safety Officer
Acuren Inspection, Inc.
4566 Abrahamson Rd.
Duluth, MN 55811

**SUBJECT: ACUREN INSPECTION, INC. - NOTICE OF VIOLATION AND PROPOSED
IMPOSITION OF CIVIL PENALTY - \$16,000, ROUTINE INSPECTION REPORT
NO. 03038913/2021004(DNMS)**

Dear Mr. Karie:

This letter refers to the routine inspection conducted on August 3, 2021, by the U.S. Nuclear Regulatory Commission (NRC) at your Portage, Michigan, location with continued in-office review through September 23, 2021. The purpose of the inspection was to ensure that activities performed under your NRC license complied with NRC requirements. The in-office review included a review of the incident that occurred at a temporary job site near Bay City, Michigan, on June 11, 2021, which involved a member of the public entering the restricted area and high radiation area during a radiographic exposure. The inspection identified three apparent violations of NRC requirements. On October 20, 2021, Mr. Jason Draper discussed with you the circumstances surrounding these apparent violations, their significance, and the need for lasting and effective corrective actions during an inspection exit meeting by telephone. The NRC Inspection Report 03038913/2021004(DNMS) described the details of the apparent violations.

In a letter dated November 18, 2021, we transmitted the inspection report and provided you the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. You provided a response to the apparent violations in a letter dated December 6, 2021.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated December 6, 2021, the NRC has determined that two violations of NRC requirements occurred in connection with the events of June 11, 2021. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. In brief, a violation of 10 CFR 34.41(a) occurred when radiography was conducted without at least one other qualified individual present. Specifically, during an exposure, the assistant radiographer was monitoring the operation alone while one radiographer was sitting in the cab of the truck, facing away from the restricted area, and the other radiographer was seventy-five yards away talking to one of the client's employees. In addition,

a violation of 10 CFR 34.51 occurred when none of your employees maintained continuous, direct visual surveillance of the radiographic operation to protect against entry into the restricted area and the high radiation area. As a result of this failure, an employee of the client entered the restricted area for an estimated 13 seconds and was exposed to the high radiation area for an estimated 4 seconds. The scope of the inspection focused on the intrusion into the restricted area, however, and the NRC has determined that it has insufficient information to establish whether a violation of 10 CFR 34.46(c) also occurred. Therefore, it has determined not to cite the event as a violation of 10 CFR 34.46(c).

These two violations resulted in actual consequences to a member of the public (the client's employee), although the brief exposure did not result in an overexposure based on dose reconstruction calculations. Therefore, these violations have been categorized in accordance with the NRC Enforcement Policy collectively as a Severity Level (SL) III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$16,000 is considered for a SL III problem.

Because your facility has been the subject of an escalated enforcement action within the last 2 years,¹ the NRC considered whether credit was warranted for identification and corrective action in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Credit was not warranted for identification because the violations were identified by an inspector following an event. Credit was warranted for corrective action as described in the inspection report and in your written response, dated December 6, 2021. Based on these corrective actions, the NRC has determined that corrective action credit is warranted.

Therefore, to emphasize the importance of attention during operations and proper surveillance of the restricted area boundary, and in recognition of your previous escalated enforcement actions, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$16,000 for the SL III violations. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC recognizes that many licensees have been impacted economically by the public health emergency caused by the Coronavirus Disease 2019 (COVID-19). Consequently, as described in the enclosed Notice, the NRC is extending by 30 days the period of time by which the civil penalties must be paid (i.e., extending the deadline from 30 days to 60 days from the date of this Notice), and the NRC would consider a request for additional time, if appropriate. Please refer to the enclosed Notice for further instructions.

You may choose to pay the proposed civil penalty by submitting your payment, with the invoice enclosed (Enclosure 3) to this letter, to the following address:

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

¹ On March 3, 2020, the licensee was issued a Severity Level III violation for an issue identified during a reactive inspection performed following a licensee-reported event (EA-19-131).

In addition, you may pay the proposed civil penalty in accordance with NUREG/BR-0254. When using NUREG/BR-0254 to pay the civil penalty, the invoice number should be used as the "enforcement action identifier" when submitting your payment through one of the approved methods listed in the brochure. The NRC may consider a request for additional time to pay the proposed civil penalty, including the option to enter into an installment agreement, if payment of the civil penalty as a lump sum in the required timeframe would pose a financial hardship. To request additional time to pay, you must submit a written request, with appropriate justification explaining your financial hardship, to NRCCollections.Resource@nrc.gov. All requests should be submitted in sufficient time to allow the NRC the ability to review your request for additional time to pay before the 60 day payment period expires.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Mike Kunowski at (630) 829-9618 within 10 days of the date of this letter. You may also contact both ICR and Mr. Kunowski for additional information. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties and the required written response, as identified in the enclosed notice, until the ADR process is completed.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective steps that have been taken and the results achieved; and (3) the corrective steps that will be taken; and (4) the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03038913/2021004(DNMS) and your letter dated December 6, 2021. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at http://www.nrc.gov/reading_rm/doc_collections/enforcement/actions/.

B. Karie

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If you have any questions concerning this matter, please contact Shelbie Lewman, Acting Enforcement Officer of my staff, at 630-829-9653 or shelbie.lewman@nrc.gov..

Sincerely,



Signed by Giessner, Jack
on 02/28/22

John B. Giessner
Regional Administrator

Docket No. 030-38913
License No. 22-27593-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)
3. Civil Penalty Invoice

cc w/encl 1. State of Minnesota
State of Michigan

Letter to B. Karie from John B. Giessner dated 28 February 2022

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OFFICE	OGC		NMSS		OE		EICS
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DATE	2/9/22		2/15/22		2/17/22		2/23/22
OFFICE	RIII		RIII		RIII		RIII
NAME	JGiessner						
DATE	2/28/22						

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NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Acuren Inspection, Inc.
Duluth, Minnesota

Docket No. 030-38913
License No. 22-27593-01
EA-21-133

During an NRC inspection conducted on August 3, 2021, with continued in-office review through September 23, 2021, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR 34.41(a) requires that whenever radiographic operations are performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has met the requirements of 34.43(c). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

Contrary to the above, on June 11, 2021, at a temporary job site near Bay City, Michigan, the licensee failed to ensure that radiography was conducted with at least one other qualified individual present. Specifically, radiography was performed with only the assistant radiographer present while one radiographer was sitting in the cab of the truck and the other was seventy-five yards away. Therefore, neither radiographer was able to provide immediate assistance to prevent unauthorized entry when a member of the public entered the restricted area.

- B. 10 CFR 34.51 requires that during each radiographic operation, the radiographer, or the other individual present, as required by 34.41, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in 10 CFR Part 20, except at permanent radiographic installations where all entryways are locked and the requirements of 34.33 are met.

Contrary to the above, on June 11, 2021, at a temporary job site near Bay City, Michigan, neither the radiographer nor any other qualified individual present during radiographic operations, maintained continuous direct visual surveillance of the radiographic operation to protect against entry into the high radiation area. Specifically, the radiographer and the radiographer's assistant failed to recognize that an individual had entered the restricted area and high radiation area until the individual was within the high radiation area.

This is a Severity Level III problem (Section 6.3(c)(4)).
Civil Penalty - \$ 16,000.00. (EA-21-133)

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03038913/2021004(DNMS). However, if the description therein does not accurately

reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a Reply to a Notice of Violation.

You may pay the civil penalty proposed above in accordance with NUREG/BR-0254 and by submitting a statement indicating when and by what method payment was made to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission (Statement as to Payment of Civil Penalty).

In the alternative, you may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. Should you fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should you elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing (a) civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to Payment of Civil Penalty, and Answer to a Notice of Violation, should be addressed to: Mark Lombard, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to John B. Giessner, Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Lisle, IL 60532-4352 and the U.S. NRC Document Control Desk, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, it should not include any personal privacy, or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for

your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 28th day of February 2022

QUESTIONS?

If you have questions, please visit <https://www.nrc.gov> and search for "License Fees."

Questions may also be directed to the NRC Accounts Receivable Help Desk by e-mail at FEES.Resource@nrc.gov, by phone at (301) 415-7554, or by writing to the address below:

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T9-E10
Washington, DC 20555-0001



Payment Methods

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T-9-E10
Washington, DC 20555-0001
PH (301) 415-7554



NUREG/BR-0254, Rev. 8
February 2018



Estimated burden per response to comply with this voluntary collection request: 10 minutes. This brochure provides information about available payment methods. Forward comments about to burden estimate to the Records Management Branch (T6-F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0190), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

NRC accepts the methods described below.

PAYMENT BY AUTOMATED CLEARINGHOUSE

To pay by Automated Clearinghouse / Electronic Data Interchange (ACH/EDI), provide a copy of NRC Form 628 to your financial institution. You may obtain a copy of NRC Form 628 by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.

PAYMENT BY CREDIT CARD

The NRC is currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees" and enter the required information.

You may also mail or fax NRC Form 629 following the directions on the form. To obtain a copy of NRC Form 629 go to <http://www.nrc.gov> and search for "NRC Form 629" or call the NRC Accounts Receivable Help Desk at (301) 415-7554.



PAYMENT BY FEDWIRE DEPOSIT SYSTEM

The NRC can receive funds through the U.S. Department of the Treasury (Treasury) Fedwire Deposit System. The basic wire message format below complies with the Federal Reserve Board's standard structured third-party format for all electronic funds transfer (EFT) messages.

See the sample EFT message to Treasury below. Each numbered field is described below.

1 RECEIVER-DFI# – Treasury's routing number for deposit messages is 021030004.

2 TYPE-SUBTYPE-CD – The sending bank will provide the type and subtype code.

3 SENDER-DFI# – The sending bank will provide this number.

4 SENDER-REF# – The sending bank will insert this 16-character reference number at its discretion.

5 AMOUNT – The transfer amount must be punctuated with commas and decimal point; use of the "\$" is optional. The depositor will provide this item.

6 SENDER-DFI-NAME – The Federal Reserve Bank will automatically insert this information.

7 RECEIVER-DFI-NAME – Treasury's name for deposit messages is "TREAS NYC". The sending bank will enter this name.

8 PRODUCT CODE – A product code of "CTR" for customer transfer should be the first item in the receiver text field. Other values may be entered, if appropriate, using the American Bankers Association's options. A slash must be entered after the product code.

9 AGENCY LOCATION CODE (ALC) – THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be on one line and cannot contain any spaces. The NRC's 8-digit ALC is: BNF=/AC-31000001

10 THIRD-PARTY INFORMATION – The Originator to Beneficiary Information (OBI) field tag "OBI=" signifies the beginning of the free-form third-party text. All other identifying information intended to enable the NRC to identify the deposit—for example, NRC annual fee invoice number, description of fee, 10 CFR 171 annual fee, and licensee name—should be placed in this field.

The optimum format for fields 7, 8, 9, and 10 using an 8-digit ALC is as follows:

TREAS NYC/CTR/BNF=/AC-31000001 OBI=

The optimum format, shown above, will allow 219 character positions of information following the "OBI=" indicator.

If the licensee's bank is not a member of the Federal Reserve System, the nonmember bank must transfer the necessary information and funds to a member bank, which then must transfer the information and funds to the local Federal Reserve Bank.

For a transfer of funds from local Federal Reserve Banks to be recorded on the same day, the transfer must be received at the New York Federal Reserve Bank by 4 p.m., EST. Otherwise, the deposit will be recorded on the next workday.

PAYMENT BY CHECK

Checks should be made payable to the U.S. Nuclear Regulatory Commission with the invoice number, Enforcement Action number, or other information that identifies the payment, written on the check. Mail the check to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank
P.O. Box 979051
St. Louis, MO 63197-9000

FedEx or overnight mailings must be delivered to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank Government Lockbox
SL-MO-C2GL
1005 Convention Plaza
St. Louis, MO 63101

TAXPAYER IDENTIFICATION NUMBER

You must file your Taxpayer Identification Number (TIN) with the NRC. Use NRC Form 531 to provide your TIN. You may obtain NRC Form 531 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 531" or by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.



02/28/2022

Address/Customer Information

Acuren Inspection, Inc.
4566 Abrahamson Rd
Duluth, MN 55811

Customer Codes

Account Code: L00000665/1

Bill Information

Bill Number: EA-21-133
Amount Due: \$16,000.00
Due Date: 03/30/2022

Contact Us

Phone Number: 301-415-7554
Fax Number: 301-415-4135
Email Address: Fees.Resource@nrc.gov

Remit to Address

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

Bill Summary

Initial Charges	\$16,000.00
Discount	0.00
Surcharge	0.00
Interest Charges	0.00
Penalty Charges	0.00
Admin Charges	0.00
Bill Amount	\$16,000.00
Collected	0.00
Applied Credit	0.00
Adjustments	0.00
Amount Due	\$16,000.00

Credit Summary

Applied Credit	\$0.00
Unapplied Credit	0.00
Credit Total	\$0.00

Comments:

For questions, contact (301) 415-7554 or by email at Fees.Resource@nrc.gov. For NRC debt collection procedures, including interest and penalty provisions, see 31 U.S.C. 3717, 4 CFR 101-105, AND 10 CFR 15.

If this invoice is related to an Order Imposing a Civil Penalty, Acuren Inspection, Inc. is required to pay the Civil Penalty within 30 days of the Order date. If payment is in response to a Notice of Violation and Proposed Imposition of a Civil Penalty, please follow the instructions in the Notice. The NRC may consider a request for additional time to pay the Civil Penalty, including the option to enter into an installment agreement, if appropriate. All requests for additional time to pay an invoice must be submitted in writing, with appropriate justification, to NRCCollections.Resource@nrc.gov, and should be submitted sufficiently ahead of time to allow the NRC time to review the request for additional time to pay within the 30-day payment period. This Invoice is related to the Civil Penalty proposed or imposed under EA-21-133 issued to Acuren Inspection, Inc. Please include this reference number on your payment method (see attached Payments Methods Brochure).

Customer Information

L00000665/1
Acuren Inspection, Inc.
4566 Abrahamson Rd
Duluth, MN 55811

Change of Address:

Phone:

Remittance Information

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

This Payment References the following Bill:

EA-21-133

Outstanding Amount Due: \$16,000.00

Amount Enclosed: _____